

**Long-Term Ombudsman Program
Policies and Procedures Manual**

Service Chapter 650-50

**North Dakota Department of Human Services
600 East Boulevard Dept. 325
Bismarck, ND 58505-0250**

Long-Term Ombudsman Program Policies and Procedures 695-01

(Revised 4/1/07 ML #3075)

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The legal authority for the Long-Term Care Ombudsman Program is codified in North Dakota Century Code [50-10.1](#).

Purpose 695-01-05

(Revised 4/1/07 ML #3075)

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The purpose of this manual is to establish policies and procedures for implementing the provision of North Dakota Century Code [50-10.1](#), providing for the appointment of a State, Regional, and Community Long-Term Care Ombudsman.

Definitions 695-01-10

Abuse 695-01-10-01

(Revised 4/1/07 ML #3075)

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Infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or deprivation by a person of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness. (OAA § 102 (1))

Anonymous Complaint 695-01-10-05

(Revised 4/1/07 ML #3075)

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A complaint filed by an individual who refuses to reveal his or her identity.

Attorney-in-Fact 695-01-10-10

(Revised 4/1/07 ML #3075)

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Refers to an individual who has been given the power to consent to release of information through a power of attorney signed by the resident.

Authorized Agent 695-01-10-15

(Revised 4/1/07 ML #3075)

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Any department having statutory or regulatory responsibilities for assuring compliance with state and federal standards, or any public or private agency, or other organization or individual which has been designated by the Department of Human Services to receive, to investigate, and to resolve complaints made by or on behalf of residents of long-term care facilities relating to matters which may affect his or her health, safety, welfare, personal or civil rights.

Case 695-01-10-20

(Revised 4/1/07 ML #3075)

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The classification of a complaint that involves exchange of information to resolve or process. Case is a term applicable in the Ombudsman Long-Term Care Ombudsman database for Older Americans Act reporting purposes.

Community Ombudsman 695-01-10-25

(Revised 4/1/07 ML #3075)

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A person, appointed by the Department of Human Services, Aging Services Division, who is volunteering within the Community Ombudsman Program; has attended initial and ongoing training; signed the Confidentiality Statement of Understanding form; and performed responsibilities as agreed to in the job description.

Complaint 695-01-10-30

(Revised 4/1/07 ML #3075)

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Information regarding action, inaction, or decisions that may adversely affect the health, safety, welfare, or rights of residents.

Complaint Investigation and Resolution 695-01-10-35
(Revised 4/1/07 ML #3075)

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Services to assist residents in resolving problems or complaints through investigation verification, formal and informal problem resolution techniques, and referral to other investigation, advocacy, or enforcement agencies.

Confidentiality of Information 695-01-10-40

(Revised 4/1/07 ML #3075)

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Information obtained by the Ombudsman Program in the investigation of a complaint, that is not to be released without authorization by the individual interviewed or by the resident, resident's guardian, an attorney-in-fact, or by court order.

Designated Representative 695-01-10-45

(Revised 4/1/07 ML #3075)

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Refers to a legal representative or to any individual with primary responsibility to assist the resident such as a family member or friend.

Financial Record 695-01-10-50

(Revised 4/1/07 ML #3075)

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A record maintained by a long-term care facility relating to fees charged and paid for an individual resident's care and to funds maintained and paid through the resident's personal needs account.

**Disposition - Options when Closing Complaint
Investigations (Developed by the National Ombudsman
Reporting System (NORS)) 695-01-10-55
(Revised 4/1/07 ML #3075)**

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1. Requires legal or regulatory action
2. Not resolvable
3. Permanently withheld or withdrawn
4. Referred - no final report
5. Referred - other agency failed to act
6. Partially resolved
7. Resolved
8. None (not marked on Ombudsman computer reporting system)

Exploitation 695-01-10-60

(Revised 4/1/07 ML #3075)

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The illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain. (OAA § 102 (18)(A)).

Family Council Activities 695-01-10-65

(Revised 4/1/07 ML #3075)

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Provision of technical assistance, information, training, or support to family members of residents and/or facility staff regarding developing, informing, or maintaining a family council.

Information and Assistance (also referred to as an inquiry) 695-01-10-70

(Revised 4/1/07 ML #3075)

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Services which provide information to individuals regarding long-term care or the needs/rights of long-term care residents. This service is classified as an activity under Ombudsman Long-Term Care Ombudsman database and for Older Americans Act reporting services.

Legal Representative 695-01-10-75

(Revised 4/1/07 ML #3075)

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An agent under a valid power of attorney, provided that the agent is acting within the scope of his or her agency; an agent under a durable power of attorney for health care; guardian; conservator; or an executor or administrator of the estate of a deceased resident.

Long-Term Care Facility 695-01-10-80

(Revised 4/1/07 ML #3075)

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Means a facility defined in North Dakota Century Code Chapter [50-10.1](#), as any assisted living facility, any skilled nursing facility, basic care facility, nursing home as defined in subsection 3 of the North Dakota Century Code section [43-34-01](#), or swing bed hospital approved to furnish long-term care services.

Long-Term Care Services 695-01-10-85
(Revised 4/1/07 ML #3075)

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A set of health, personal care, and social services delivered over a sustained period of time to persons who have lost or never acquired some degree of functional mental or physical capacity. ("Institute of Medicine, Real People, Real Problems"; "An Evaluation of the Long-Term Care Ombudsman Program of the Older Americans Act," 1995 p. 290.)

Medical Record 695-01-10-90

(Revised 4/1/07 ML #3075)

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A record maintained by a long-term care facility relating to the mental and physical condition, care, and treatment of a particular long-term care resident.

Neglect 695-01-10-95

(Revised 4/1/07 ML #3075)

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The failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or self neglect (OAA § 102 (38)).

Reasonable Access 695-01-10-100

(Revised 4/1/07 ML #3075)

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Access refers to an Ombudsman's right to access a long-term care facility, residents, or a resident's records.

Regional Long-Term Care Ombudsman 695-01-10-105
(Revised 4/1/07 ML #3075)

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An individual who serves as an advocate for older persons who receive long-term care services in a long-term care facility.

Resident and Family Council Activities 695-01-10-110
(Revised 4/1/07 ML #3075)

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Provision of technical assistance, information, training, or support to residents, families, and/or facility staff regarding developing, informing, or maintaining a resident's council.

State Long-Term Care Ombudsman 695-01-10-115

(Revised 4/1/07 ML #3075)

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1. Establish and operate an Office of the State Long-Term Care Ombudsman Program to identify, investigate, and resolve complaints on behalf of residents of long-term care facilities.
2. Carry out through the Office of the State Long-Term Care Ombudsman a program which will provide services to assist residents in protecting their health, safety, welfare, and rights.
3. The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.
4. The State Long-Term Care Ombudsman shall serve on a full-time basis.

Skilled Nursing Facility 695-01-10-120
(Revised 4/1/07 ML #3075)

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Refer to Long-Term Care Facility, [01-10-80](#).

Statewide Uniform Reporting System and Reports 695-01-10-125

(Revised 4/1/07 ML #3075)

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Refers to statewide reporting system which collects data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems.

States must submit annual Ombudsman reports to the Administration on Aging (AOA) by January 30 each year for the previous fiscal year, October 1 through September 30. To ensure compatibility of data, AOA and state ombudsman jointly developed a standard reporting system, the National Ombudsman Reporting System (NORS).

Investigation 691-01-15

Services 691-01-15-01

(Revised 4/1/07 ML #3075)

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1. The Ombudsman Program shall receive, investigate and resolve complaints made by or on behalf of older persons who are residents of long-term care facilities relating to action, inaction, or decisions of providers or their representatives, of long-term care services, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare, or rights of such residents.
2. The Ombudsman Program may respond to complaints initiated by non-elderly long-term care facility residents or by those acting directly in their behalf when the program is the only viable avenue of assistance to the complainant.
3. Complaints vary in seriousness:
 - a. A complaint which indicates a life-threatening situation, decision, or condition which presents an imminent danger or a substantial probability of resultant death or increased harm or risk of harm to a resident of a long-term care facility includes but is not limited to:
 - i. Serious or continuing physical or mental abuse or neglect of a resident;
 - ii. Outbreak of communicable disease;
 - iii. Death of a resident due to an accident or when suspicious circumstances surround a death;
 - iv. Unusual number of deaths;
 - v. Inadequate staff;
 - vi. Unacceptable temperatures within the facility; and
 - vii. Lack of medical attention.
 - b. A complaint which has no immediate endangerment to the health, safety, security, or rights of a resident, and does not involve a substantial probability of resultant death or increased

harm or risk of harm to any resident of a long-term care facility includes, but is not limited to:

- i. Inadequate food servings;
 - ii. Poor maintenance of equipment;
 - iii. Generalized poor nursing care;
 - iv. Rehabilitative nursing care is lacking;
 - v. Physician's orders not followed;
 - vi. Improper or unauthorized use of restraints;
 - vii. Inadequate number of Certified Nursing Assistants;
 - viii. Poor housekeeping practices;
 - ix. Facility structural problems; and
 - x. Continuing violations of rights to privacy and dignity.
- c. A complaint of such a nature that is not life-threatening includes, but is not limited to the following:
- i. Personal needs money or personal property misused;
 - ii. Resident denied facility services;
 - iii. Overcharges or charges made for services not performed;
 - iv. Disclosure of resident information without proper release or authorization;
 - v. Discriminatory acts;
 - vi. Visitation rights revoked or restricted; and
 - vii. Family not notified of transfer, accident, injury; or change of resident's condition.

**Regular Presence in Long-Term Care Facility
695-01-15-05**

(Revised 4/1/07 ML #3075)

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1. The State or Regional Ombudsman shall visit at least three times per fiscal year each long-term care facility within his or her geographic jurisdiction.
2. The State or Regional Ombudsman is to make frequent visits to a long-term care facility where persons reside under the following circumstances or other serious circumstances:
 - a. Three or more verified complaint reports are received by the Ombudsman Program within each calendar quarter;
 - b. Health Facilities survey establishes serious deficiencies; or
 - c. Facility is in receivership or is changing ownership due to administrative and/or financial problems.

Public Information/Education 695-01-15-10

(Revised 4/1/07 ML #3075)

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1. The Ombudsman Program shall accept referrals and inquiries and provide information to assist individual residents, staff, or individuals requesting information on behalf of a resident. The information requested may concern the long-term care system, the rights and benefits of residents of long-term care facilities or services available to residents including the activities of the Ombudsman Program.
2. Public education to provide information and education regarding the long-term care system, the rights and benefits of residents of long-term care facilities, and services available to residents. Public education activities include public speaking engagements, sponsoring or conducting workshops, promoting the development of community organizations to participate in the Ombudsman Program, developing and distributing written materials and promoting media coverage of long-term care issues.

Issue Advocacy 695-01-15-15

(Revised 4/1/07 ML #3075)

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The Ombudsman Program shall monitor the development and implementation of Federal, State, and Local laws, regulations, and policies that relate to long-term care facilities.

Ombudsman Access 691-01-20

Access to Facilities 695-01-20-01

(Revised 4/1/07 ML #3075)

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The Ombudsman shall have access to all long-term care facilities.

1. For complaints directly involving the facility, the Ombudsman shall:

a. Access the facility:

i. During normal working hours of 8:00 a.m. to 5:00 p.m. without prior notice.

Upon entering the facility, the Ombudsman shall notify the administrator or the person in charge, if appropriate

The Ombudsman shall produce identification if requested.

ii. After 5:00 p.m. by an appointment or 24 hour notice to the administrator or the person in charge.

Upon entering the long-term care facility, the Ombudsman shall notify the administrator or the person in charge.

The Ombudsman shall produce identification if requested.

b. Provide the following information, concerning a complaint involving the facility, to the administrator or the person in charge of the facility:

i. Name of the resident who or on whose behalf a complaint has been filed, if permission from resident has been obtained.

LTC Ombudsman

Division 20
Program 695

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Chapter 01

- ii. Name of the complainant who has filed a complaint on behalf of a resident, if permission from the complainant has been obtained.
 - iii. Brief summary of the complaint that has been filed by or on behalf of the resident.
- 2. For cases not involving the facility, the Ombudsman shall:
 - a. Upon entering the facility, notify the administrator or the person in charge, if appropriate.
 - b. Give a brief summary of the complaint to the administrator or the person in charge, if appropriate.

Access to Records 695-01-20-05

(Revised 4/1/07 ML #3075)

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The Ombudsman shall:

1. Access resident's medical personal financial, or other pertinent records after the resident, resident's guardian, or attorney-in-fact has given permission to review the records.
2. Access other person's records, when the Ombudsman has received written permission.

Access to Residents 695-01-20-10

(Revised 4/1/07 ML #3075)

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The Ombudsman shall:

1. Knock before entering a resident's room and then identify himself or herself to the resident.
2. Terminate a conversation with a resident if the resident refuses to talk or requests the Ombudsman to leave.
3. Request the facility to provide a private room, if the resident's room is not suitable for a private conversation or such consultation infringes on the rights of other roommates.

Complaints 695-01-25

Complaint Investigation and Documentation 695-01-25-01

(Revised 4/1/07 ML #3075)

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1. An investigation is to be conducted and documented by the Regional and State Ombudsman on all complaints received.
 - a. Identify the relevant issue areas raised by the complainant.
 - b. Assemble all necessary facts.
 - c. Determine the validity of the complaint.
 - d. Seek resolution of the complaint.
2. An investigation shall be conducted by a qualified State or Regional Ombudsman and may include:
 - a. An on-site visit to the facility.
 - b. Face to face contact and interview with the complainant and/or his or her representative. Telephone contacts can be made when distance is a factor.
3. Direct contact and interview with the complainant may be face to face contact, telephone call, or by letter.

Complaint Referrals to the Ombudsman Program 695-01-25-05

(Revised 4/1/07 ML #3075)

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Depending on the nature of the complaint, an investigation may include the following activities:

1. Interview with nursing facility direct care staff which may include, but are not limited to, certified nursing assistants, charge/floor nurses, director of nursing, facility social worker, activity director, administrator, and/or owner.
2. Interviews with other individuals as they pertain to the complaint which may include, but are not limited to, the resident's physician, staff from public health, social services, mental health, or developmentally disabled services.

Referrals from the Ombudsman Program 695-01-25-10
(Revised 4/1/07 ML #3075)

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If during an investigation of a complaint the Ombudsman decides the case needs to be referred to a licensing, regulatory agency or others, the Ombudsman shall:

1. Inform the complainant or resident of the need to do a referral.
2. Conduct a direct referral to the appropriate agency.
3. Notify complainant/resident when referral has been made.

Verification of Complaints 695-01-25-15**(Revised 4/1/07 ML #3075)**[View Archives](#)

The validity of each complaint investigated is to be determined based on evidence/information obtained during the investigation.

1. A complaint shall be considered verified if one or more of the following criteria are met:
 - a. Observed by an Ombudsman.
 - b. Substantiated through interviews, records, inspections, and/or observation.
 - c. Reported in Health Facilities survey reports.
 - d. Acknowledged by facility.
2. A complaint shall be considered partially verified if a portion of the complaint is verified and/or the complaint is supported by evidence which is contradictory but tends to corroborate the complaint.
3. The complaint shall be considered not verified if the interviews, records, or observations fail to corroborate the substance of the complaint.
4. A complaint shall be considered undetermined when there is not enough information to verify, partially verify, or not verify.

Resolution of Complaints 695-01-30

(Revised 4/1/07 ML #3075)

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1. If the investigation of a complaint discloses information indicating that the complaint is verified or not verified, the Ombudsman Program has the responsibility to inform the resident or resident's representative of the legal, administrative, and other remedies available to the resident to resolve the complaint.
2. The Ombudsman will assist the resident or residents representative in seeking appropriate remedies in order to resolve the complaint.
3. The Ombudsman Program will attempt, whenever possible, to resolve complaints on an in-house basis (i.e., within the facility or agency where the problem exists).

Resolution Status 695-01-30-01

(Revised 4/1/07 ML #3075)

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The resolution status of each complaint shall be documented according to the classifications below:

1. Resolved. A complaint will be considered "resolved" when the problem reported was addressed to the satisfaction of the resident, his or her representative, or the complainant.
2. A complaint will be considered "partially resolved" when the problem was partially addressed to the satisfaction of the resident, his or her representative, or the complainant.
3. A complaint will be documented as "no action needed" when action is not needed or appropriate to address or follow-up with the problem reported as determined by the Ombudsman.
4. A complaint will be considered "withdrawn" when it is stopped by the representative or complainant.
5. A complaint will be considered "not resolved" when the Ombudsman took steps to address the problem; however, for whatever reason, the problem was not addressed to the satisfaction of the resident or the complainant and the Ombudsman.
6. A complaint shall be considered "regulatory or legislative action resolved" when the complaint is not resolved and resolution will require a change of regulation or law.

Notification of Complaint Disposition 695-01-30-05
(Revised 4/1/07 ML #3075)

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During the course of an investigation and resolution process:

1. Upon request from the complainant, resident, or resident representative, the Ombudsman shall inform him or her of the action taken in the course of the investigation and resolution process.
2. If a complaint has been referred to another investigative agency, other than Health Facilities or an attorney, the Ombudsman will follow up with the investigative agency at least once every thirty days until the investigation is completed.

Resolution Activities by Others 695-01-30-10
(Revised 4/1/07 ML #3075)

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1. If the complaint is referred to Health Facilities for further investigation, the Ombudsman will follow up with Health Facilities sixty days following the referral and then every thirty days until the investigation is completed. The status of the investigation can then be reported to the resident, complainant, and the resident's representative.
2. When the complaint is referred to Health Facilities for investigation, the Ombudsman will also obtain a copy of the investigative report or survey report.

Resolution Activities Documentation 695-01-30-15
(Revised 4/1/07 ML #3075)

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All resolution results of complaints will be reported on the National Ombudsman Reporting System (NORS) complaint computer program.

Reopening a Case 695-01-30-20

(Revised 4/1/07 ML #3075)

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When a decision is made to reopen a complaint closed by another agency, the Ombudsman shall:

1. Review the completed complaint closure report from the other agency.
2. Contact the investigative or referral agency to discuss or clarify the complaint closure report.

Complaint Record 695-01-35

Confidentiality of Complaint Record 695-01-35-01 (Revised 4/1/07 ML #3075)

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1. Information in a complaint record is confidential and not open for public disclosure.
2. The Ombudsman shall release information in a case file when:
 - a. Written authorization is given by the resident, resident's guardian, or attorney-in-fact.
 - b. By court order.
 - c. The Ombudsman authorizes a disclosure which does not reveal the identity of the complainant or resident.

Retention of Records 695-01-35-05

(Revised 4/1/07 ML #3075)

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All records pertaining to the Ombudsman Program shall be retained in accordance with state policies on record retention.

Ombudsman Program Publicity 695-01-40
(Revised 4/1/07 ML #3075)

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The State Ombudsman shall be responsible to inform each long-term care facility to:

1. Provide the following information to each resident, resident's guardian, or designated representatives:
 - a. A copy of the Ombudsman Law; and
 - b. Information about the Ombudsman Program.
2. Post the following information in a conspicuous location within the facility:
 - a. The Ombudsman Law; and
 - b. The address and telephone number of the Ombudsman Program.
3. The Ombudsman Program shall provide the following information to each long-term care facility:
 - a. Copy of an Ombudsman Program poster; and
 - b. Copy of the Ombudsman Law.

**Documentation of Requests for Information and/or
Referral 695-01-40-01**

(Revised 4/1/07 ML #3075)

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1. Requests made to the State Ombudsman and Regional Ombudsman will be documented on the Statewide Uniform Reporting System (NORS) - the National Ombudsman Reporting Data Input Application under the Consultation section.
2. Requests made to the Community Ombudsman shall be:
 - a. Documented on the Community Ombudsman [Activity Log](#); and
 - b. Reported to the Regional or State Ombudsman monthly. A copy of the Activity Log shall be mailed to the Regional Ombudsman at the end of each month.

Statewide Uniform Reporting System 695-01-40-05
(Revised 4/1/07 ML #3075)

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The following activities shall be conducted through the National Ombudsman Reporting System (NORS):

1. Coordinate the receipt, investigation, referral, and resolution of complaints;
2. Maintain and publicize the availability of a statewide toll free telephone number;
3. Maintain case statistical information;
4. Compile and mail a statistical report to appropriate agencies;
5. Gather and disseminate information about issues facing residents of long-term care facilities;
6. Assist in the development of administrative and legislative proposals for improving the quality of life and care of residents of long-term care facilities; and
7. File an annual report to include a summary of cases, I & R requests and identified long-term care issues.

Receipt of Complaints by the Ombudsman Program 695-01-40-10

(Revised 4/1/07 ML #3075)

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Complaints may be received by the Ombudsman Program from any source.

The Ombudsman receiving a complaint shall:

1. Document receipt of a complaint. The Ombudsman may request the complainant submit the complaint in writing.

If the complainant chooses not to submit the complaint in writing, or there would be substantial delay in submitting the complaint in writing, the Ombudsman shall proceed to document and register the complaint on the computer program developed to meet the standard reporting system requirements of the National Ombudsman Reporting System (NORS).

2. Disposition of the complaint will occur through one of the following resolutions:
 - a. Legal/regulatory action;
 - b. Not resolvable;
 - c. Permanently withheld or withdrawn;
 - d. Referred - no final report;
 - e. Referred to other agency who failed to act;
 - f. No action needed;
 - g. Partially resolved;
 - h. Fully resolved; or
 - i. None (not marked).

The Ombudsman will make an effort to resolve or partially resolve every complaint. Follow-up will be done on complaints referred to other agencies to determine the disposition of the complaint.

Documentation of Complaints 695-01-45

Complaints Documented by the State or Regional Ombudsman 695-01-45-01

(Revised 4/1/07 ML #3075)

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A complaint received by the State or Regional Ombudsman, whether it involves a client or issue shall be documented on the computer program which is in compliance with the National Ombudsman Reporting System (NORS).

The State or Regional Ombudsman shall provide the following information:

1. Date complaint closed;
2. Complaint received by name of employee;
3. Name of complainant. The complainant can also be anonymous.
Advise anonymous complainant of limitation in the ability of Ombudsman to investigate and resolve complaint and inability of the Ombudsman Program to guarantee the complainant's anonymity; and
4. Summary of the complaint and number of the complaint from National Ombudsman Reporting System (NORS).
5. Name of setting where resident resides which includes: nursing facility; basic care facility; swing bed; transitional care unit; or sub-acute unit;
6. Was this a first complaint for this resident?;
7. Age and sex of resident;
8. Was resident low income?; and
9. Determine appropriate agency to conduct the investigation.

**Complaint Registered by the Community Ombudsman
695-01-45-05**

(Revised 4/1/07 ML #3075)

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A complaint received by the Community Ombudsman shall be:

1. Reported to the State or Regional Ombudsman for documentation on the National Ombudsman Reporting System (NORS).
2. Documented on the Community Ombudsman Monthly [Activity Log](#).
 - Date - Day complaint was received.
 - Activity - Briefly document the Community Ombudsman's activities relative to the case.
 - Time Spent - Document hours and minutes.

A Complaint Received by Others 695-01-45-10
(Revised 4/1/07 ML #3075)

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A complaint received by others shall be:

1. Documented on the National Ombudsman Reporting System (NORS) computer program.
2. Reported to the State or Regional Ombudsman.

**Documentation of Complaints with National Ombudsman
Reporting System Computer Software and Recording
Complaint Resolutions 695-01-45-15**

(Revised 4/1/07 ML #3075)

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1. Assure that accurate data is provided in a timely manner.
2. Regularly review summary reports to check for accuracy in data entry.
3. Develop procedures for daily operation, including procedures for documenting and filing documents related to complaint investigations.

Community Ombudsman 695-01-50

Qualifications 695-01-50-01

(Revised 4/1/07 ML #3075)

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The Community Ombudsman shall:

1. Be able to communicate with residents and facility staff.
2. Be able to communicate with persons, who may be physically and/or mentally impaired.
3. Have a good understanding of issues confronting institutionalized persons and have the confidence to speak out on their behalf.
4. Be at least 18 years of age.

The Community Ombudsman or their spouse shall not:

1. Be a board member, or have an ownership interest, or be employed in the long-term care facility in which the Community Ombudsman is to be assigned.
2. Be employed by the facility.
3. Have the responsibility for the licensing or certification of facilities.

Responsibilities 695-01-50-05

(Revised 4/1/07 ML #3075)

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The Community Ombudsman shall:

1. Be present at the assigned facility(s) on a regular basis.
2. Complete the Community Ombudsman [Orientation Check List](#) and learn the facilities customary practices and services provided.
3. Maintain a written log to document:
 - a. The details about Ombudsman concerns, issues, complaints;
 - b. The amount of time expended in Ombudsman activities, including travel; and
 - c. Mileage to and from the assigned facility(s).
4. Attend the initial training.
5. Maintain confidentiality in all Ombudsman activities.
6. Receive and report concerns, issues, and complaints to the Regional Ombudsman.
7. Assist the Regional Ombudsman with assessment, complaint resolution, and follow-up activities.
8. Notify the Regional Ombudsman and facility administrator of any extended leave of absence from being a Community Ombudsman.
9. Notify the Regional Ombudsman of a Community Ombudsman's decision to resign, and return all Ombudsman materials.

The Community Ombudsman shall not:

1. Be appointed in any protective service capacity for a long-term care resident, as a function of the Ombudsman Program.
2. Conduct a complaint assessment which would result in a conflict of interest for the Community Ombudsman. Such as, assessment of a complaint involving a family member residing in a facility in which the Community Ombudsman is assigned.
3. Provide direct personal care to residents; such as hair care.
4. Provide transportation for residents.

LTC Ombudsman

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5. Conduct personal business for residents; such as writing checks, purchasing gifts or clothing.

Recruitment, Selection, and Initial Training 695-01-50-10

Responsibilities of the Regional Ombudsman 695-01-50-10-01

(Revised 4/1/07 ML #3075)

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The Regional Ombudsman shall:

1. Recruit and select Community Ombudsman.
2. Conduct or arrange initial and on-going training.

The following topics should be included:

- a. Aging process and effects of institutionalization;
 - b. Federal rules and regulations, laws, and the role of regulatory agencies;
 - c. Ombudsman Program policies and procedures;
 - d. Long-term care resident bill of rights;
 - e. Protective arrangements and advance directives for health care;
 - f. Skills development such as: visiting, interviewing, and problem resolution; and
 - g. Long-term care payment sources and nursing facility rate setting.
3. Have each Community Ombudsman agree to, and sign a [job description](#).
4. Have each Community Ombudsman agree to, and sign a confidentiality and [Conflict of Interest Statement of Understanding](#) form.
5. Notify each facility of the assignment of the Community Ombudsman.
6. Open a file for each Community Ombudsman and give them a copy of the following:
 - a. A signed copy of the Community Ombudsman [Position Description](#);

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- b. [Confidentiality and Conflict of Interest Statement of Understanding](#) form; and
- c. Community Ombudsman Certificate.

Responsibilities of the Regional Ombudsman 695-01-50-10-05

(Revised 4/1/07 ML #3075)

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The Community Ombudsman shall:

1. Complete the initial training;
2. Read and sign the [Community Ombudsman Position Description](#); and
3. Read and sign the [Confidentiality and Conflict of Interest Statement of Understanding](#) form.

Annual Evaluation 695-01-50-15

Responsibilities of the Regional Ombudsman 695-01-50-15-01

(Revised 4/1/07 ML #3075)

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The Regional Ombudsman shall conduct an annual evaluation of each Community Ombudsman which shall include:

1. Each Community Ombudsman reviewing and initialing the [Confidentiality and Conflict of Interest Statement of Understanding](#) form;
2. Each Community Ombudsman reviewing and initialing the [Community Ombudsman Position Description](#);
3. Input from the Community Ombudsman used to complete the Community Ombudsman Annual Evaluation Form; and
4. Placing a copy of the statement, position description, and evaluation form in the file and give a copy to the Community Ombudsman.

Responsibilities of the Community Ombudsman 695-01-50-15-05

(Revised 4/1/07 ML #3075)

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To maintain status as a Community Ombudsman, the Community Ombudsman shall:

1. Have followed the Ombudsman program's policies and procedures as stated in this chapter, and received a satisfactory evaluation;
2. Review and initial the [Community Ombudsman Position Description](#);
3. Review and initial the [Confidentiality and Conflict of Interest Statement of Understanding](#) form.

Extended Leave of Absence 695-01-50-20**(Revised 4/1/07 ML #3075)**[View Archives](#)

There may be circumstances, including health or family reasons, which may cause the Community Ombudsman to take an extended leave of absence from being an Ombudsman.

Under such circumstances:

1. The Regional Ombudsman shall:
 - a. Make a notation of the leave of absence in the Community Ombudsman's file;
 - b. Send a letter to the Community Ombudsman accepting his or her request for a leave of absence;
 - c. Send a letter to the facility to which the Community Ombudsman was assigned, informing them the Community Ombudsman is on a leave of absence; and
 - d. Place a copy of the letter to the Community Ombudsman and the facility in the Community Ombudsman's file.
2. The Community Ombudsman shall:
 - a. Inform the Regional Ombudsman of his or her need to request a leave of absence from being a Community Ombudsman; and
 - b. Inform the Regional Ombudsman of his or her ability to return to his or her role as a Community Ombudsman.

Reinstatement After an Extended Leave of Absence 695-01-50-20-01

(Revised 4/1/07 ML #3075)

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When the Community Ombudsman returns to his or her role as a Community Ombudsman, the Regional Ombudsman shall:

1. Have the Community Ombudsman review and initial the [Position Description](#), as appropriate;
2. Have the Community Ombudsman review and initial the [Confidentiality and Conflict of Interest Statement of Understanding](#) forms;
3. Send a letter to the Community Ombudsman informing him or her that he or she has been reinstated as a Community Ombudsman.
4. Send a letter to the facility to which the Community Ombudsman is assigned informing them of the reinstatement of the Community Ombudsman; and
5. File all applicable correspondence and initialed forms in the Community Ombudsman's file.

Resignation 695-01-50-25

Responsibilities of the Regional Ombudsman 695-01-50-25-01

(Revised 4/1/07 ML #3075)

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1. The Regional Ombudsman shall:
 - a. Write a letter to the Community Ombudsman, acknowledging his or her resignation and requesting he or she return all Ombudsman Program materials to the Regional Ombudsman.
 - b. Write a letter to the facilities to which the Community Ombudsman was assigned informing them of the resignation of the Community Ombudsman and requesting the facility remove any posted documentation or notification that this person is a Community Ombudsman.
 - c. File a copy of the letters to the Community Ombudsman and the facility, in the Community Ombudsman's file.

**Responsibilities of the Community Ombudsman
695-01-50-25-05**

(Revised 4/1/07 ML #3075)

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If the Community Ombudsman decides to resign, the Community Ombudsman shall:

1. Notify the Regional Ombudsman of his or her decision; and
2. Return to the Regional Ombudsman all Ombudsman Program materials.

Dismissal 695-01-50-30

(Revised 4/1/07 ML #3075)

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A Community Ombudsman shall be removed from his or her duties for misconduct, neglect of duty, or incompetence in his or her conduct of Community Ombudsman functions.

Reasons for Dismissal 695-01-50-30-01

(Revised 4/1/07 ML #3075)

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Reasons for dismissal can include:

1. Failure to perform Community Ombudsman services consistent with the Ombudsman Program's policies and procedures;
2. Failure to maintain confidentiality, such as the identity of an anonymous complainant, disclosure of an impending Ombudsman complaint investigation or facility licensure/certification survey;
3. Failure to report abuse, neglect, or exploitation of a long-term care resident to the Regional Ombudsman; and
4. Communicating a known false statement.

Receipt of a Complaint Against a Community Ombudsman 695-01-50-30-05

(Revised 4/1/07 ML #3075)

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When a complaint about a Community Ombudsman has been received, the Regional Ombudsman shall:

1. Request a written and signed complaint from the complainant, whenever possible;
2. Inform the complainant that a copy of the submitted written complaint will be shared with the Community Ombudsman, with the complainant's name deleted from the copy given to the Community Ombudsman, unless the complainant has given permission to release his or her name;
3. Discuss the complaint with the Community Ombudsman;
4. Request the Community Ombudsman submit to the Regional Ombudsman, a written response to the complaint within ten working days; and
5. Inform the Community Ombudsman of the review procedures. The Community Ombudsman shall be informed that the Regional Ombudsman will review, consider all the available information, and issue a decision within ten working days from the date the Community Ombudsman's written response to the complain is received.

Suspension of the Community Ombudsman 695-01-50-30-10

(Revised 4/1/07 ML #3075)

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If the Regional Ombudsman determines that the complaint is sufficiently severe in nature to warrant a suspension:

1. The Regional Ombudsman shall write a letter to the Community Ombudsman informing him or her of the suspension and the reason for the suspension;
2. If the Community Ombudsman elects to resign prior to, or during, the assessment of the complaint, the assessment of the complaint ceases, unless the complaint involves abuse, neglect, or exploitation of a resident;
3. The Regional Ombudsman shall notify the facility administrator, in writing, of the suspension or the on-going assessment of the complaint; and
4. The Regional Ombudsman shall file copies of the notification letters in the Community Ombudsman's file.

Notification of Findings 695-01-50-30-15**(Revised 4/1/07 ML #3075)**[View Archives](#)

After an assessment of the complaint has been conducted, the Regional Ombudsman shall:

1. For a complaint assessment finding that there is sufficient evidence to support the complaint and dismissal:
 - a. Send a written notice to the Community Ombudsman. The written notice shall include:
 - i. Statement setting forth the specific complaint and summary of the assessment findings;
 - ii. Statement of immediate suspension of the Community Ombudsman prior to a request by the Community Ombudsman of a review of the dismissal;
 - iii. Statement informing the Community Ombudsman that he or she can request a review of the complaint assessment by the Director of the Aging Services Division or his or her appointed representative.
 - iv. A copy of the dismissal review procedures as stated in 01-05-13-09 Review of the Dismissal; and
 - v. Statement informing the Community Ombudsman that if a written request for review of the dismissal is not received within ten working days from the date of the notice of findings, the dismissal goes into effect on that date.
 - b. Write a letter to the facility, to which the Community Ombudsman is assigned, informing them of the suspension;
 - c. Write a letter to the Director of the Aging Services Division with notification of the suspension, dismissal, and possible request for review of the suspension;
 - d. File copies of the letters in the Community Ombudsman's file.

2. For a complaint assessment found to have insufficient evidence to support the complaint and dismissal, the Regional Ombudsman shall:
 - a. Send a letter to the Community Ombudsman informing the individual of the complaint assessment findings;
 - b. Write a letter to the facility to which the Community Ombudsman is assigned, informing them that the complaint assessment was concluded and the Community Ombudsman will continue, or if previously suspended, resume Ombudsman duties; and
 - c. File copies of the letters in the Community Ombudsman's file.
3. For a complaint assessment found to not be of severe enough nature to warrant dismissal, but still of concern, the Regional Ombudsman shall:
 - a. Write a letter to the Community Ombudsman, stating specific reasons why the Community Ombudsman's conduct is unacceptable.

The letter shall include:

- i. A request for the Community Ombudsman's assistance in correcting the situation; and
 - ii. A date to conduct a review, after which suspension or dismissal may be warranted.
- b. File a copy of the letter in the Community Ombudsman's file.

Review of the Dismissal 695-01-50-30-20

(Revised 4/1/07 ML #3075)

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1. The Regional Ombudsman shall:
 - a. Inform the Community Ombudsman he or she must submit a written request, which must be received within ten working days from the date of the written notice of dismissal, to the Director of the Aging Services Division, North Dakota Department of Human Services, to have the review of the dismissal; and
 - b. File a copy of the letter in the Community Ombudsman's file.
2. The Director of the Aging Services Division shall:
 - a. Conduct or appoint a representative to conduct a review by utilizing a telephone conference call or a meeting between the Regional Ombudsman, Community Ombudsman, and other individuals that may be requested by one of the conference call participants;
 - b. Discuss with the Regional Ombudsman the findings of the review;
 - c. Issue a written notice of the findings of the review, within five working days, to the Regional and Community Ombudsmen.

Final Written Dismissal Notice 695-01-50-30-25

(Revised 4/1/07 ML #3075)

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If the findings of the review, warrant a dismissal, the Regional Ombudsman shall:

1. Send a dismissal notice to the Community Ombudsman;
2. Send a letter to appropriate parties, informing them of the dismissal;
and
3. File copies of the letters in the Community Ombudsman's file.

**Reimbursement of Community Ombudsman
695-01-50-30-30**

(Revised 4/1/07 ML #3075)

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Community Ombudsman will be reimbursed, within resources available, for approved expenses incurred in their function as a Community Ombudsman.

Reimbursement will be made according to established state rates.

Ombudsman Complaint Categories 695-01-55

(Revised 4/1/07 ML #3075)

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OMBUDSMAN COMPLAINT CATEGORIES

NOTE: A through M are for complaints against managers or staff of nursing facilities, basic care homes, or similar facilities covered by the Ombudsman Program. N through Q are for complaints made against, or problems with, other individuals or outside agencies.

RESIDENT RIGHTS

A. Abuse, Gross Neglect/Exploitation

1. Abuse, physical
2. Abuse, sexual
3. Abuse, verbal/mental (including involuntary seclusion)
4. Financial exploitation (use E for less severe forms of financial complaints)
5. Gross neglect (use categories under Resident Care for less severe forms of neglect)
6. Resident-to resident physical or sexual abuse

B. Access to Information

7. Access to own records
8. Access to ombudsman/visitors
9. Access to facility survey
10. Information regarding advance directive
11. Information regarding medical condition, treatment, and any changes
12. Information regarding rights/benefits/services
13. Information communicated in understandable language

C. Admission, Transfer, Discharge, Eviction

14. Admission contract and/or procedure
15. Appeal process: absent, not followed
16. Bed hold: written notice, refusal to readmit
17. Discharge/eviction: planning, notice, procedure
18. Discrimination in admission due to condition, disability
19. Discrimination in admission due to Medicaid status
20. Room assignment/room change/intrafacility transfer

D. Autonomy, Choice, Exercise of Rights, Privacy

21. Choose personal physician/pharmacy
22. Confinement in facility against will (illegally)
23. Dignity, respect, staff attitudes
24. Exercise choice and/or civil rights (includes right to smoke)
25. Exercise right to refuse care/treatment
26. Language barrier in daily routine
27. Participate in care planning by resident and/or designated surrogate
28. Privacy: telephone, visitors, couples, mail
29. Privacy in treatment, confidentiality
30. Response to complaints
31. Reprisal, retaliation

E. Financial, Property (Except for Financial Exploitation)

32. Billing/charges: notice, approval, questionable, accounting wrong or denied (includes overcharge of private pay residents)
33. Personal funds: mismanaged, access denied, deposits and other money not returned (report criminal level misuse of personal funds under #4)
34. Personal property lost, stolen, used by others, destroyed

RESIDENT CARE

F. Care

- 35. Accidents, improper handling
- 36. Call lights, requests for assistance
- 37. Care plan/resident assessment: inadequate, failure to follow plan or physician orders (report lack of resident/surrogate involvement under #30)
- 38. Contracture
- 39. Medications: administration, organization
- 40. Personal hygiene (includes oral hygiene)
- 41. Physician services
- 42. Pressure sores
- 43. Symptoms unattended, no notice to others of change in condition
- 44. Toileting
- 45. Tubes: neglect of catheter, NG tube (use #28 for inappropriate/forced use)
- 46. Wandering, failure to accommodate/,monitor

G. Rehabilitation or Maintenance of Function

- 47. Assistive devices or equipment
- 48. Bowel and bladder training
- 49. Dental services
- 50. Mental health, psychosocial services
- 51. Range of motion/ambulation
- 52. Therapies: physical, occupational, speech
- 53. Vision and hearing

H. Restraints: Chemical and Physical

- 54. Physical restraint: assessment, use, monitoring
- 55. Psychoactive drugs: assessment, use, evaluation

QUALITY OF LIFE

I. Activities and Social Services

- 56. Choice and appropriateness
- 57. Community interaction, transportation
- 58. Roommate conflict
- 59. Social services: availability/appropriateness (use #56 for mental health, psychosocial counseling/service)

J. Dietary

- 60. Assistance in eating or assistive devices
- 61. Fluid availability/hydration
- 62. Menu: quantity, quality, variation, choice
- 63. Snacks, time span between meals
- 64. Temperature
- 65. Therapeutic diet
- 66. Weight loss due to inadequate nutrition

K. Environment

- 67. Air temperature and quality (heating, cooling, ventilation, smoking)
- 68. Cleanliness, pests
- 69. Equipment/building: disrepair, hazard, poor lighting, fire safety
- 70. Furnishings, storage for residents
- 71. Infection control
- 72. Laundry: lost, condition
- 73. Odors
- 74. Space for activities, dining
- 75. Supplies and linens
- 76. ADA accessibility

ADMINISTRATION

L. Policies, Procedures, Attitudes, Resources (See A through E for Policies on Advance Directives, Due Process, Billing, Management of Residents' Funds)

- 77. Abuse investigation/reporting
- 78. Administrator(s) unresponsive, unavailable
- 79. Grievance procedure (use C for transfer, discharge appeals)
- 80. Inadequate record keeping
- 81. Insufficient funds to operate
- 82. Operator inadequately trained
- 83. Offering inappropriate level of care (for Basic Care/similar)
- 84. Resident/family council/committee interfered with, not supported

M. Staffing

- 85. Communication, language barrier (use #29 if problem involves resident's inability to communicate)
- 86. Shortage of staff
- 87. Staff training, lack of screening
- 88. Staff turnover, overuse of nursing pools
- 89. Staff unresponsive, unavailable
- 90. Supervision
- 91. Feeding assistants

PROBLEMS WITH OUTSIDE AGENCY, SYSTEM OR PEOPLE

N. Certification/Licensing Agency

- 92. Access to information (including survey)
- 93. Complaint, response to
- 94. Decertification/closure
- 95. Intermediate sanctions
- 96. Survey process
- 97. Survey process: ombudsman participation
- 98. Transfer or eviction hearing

O. State Medicaid Agency

- 99. Access to information, application
- 100. Denial of eligibility
- 101. Non-covered services
- 102. Personal needs allowance
- 103. Services

P. System/Others

- 104. Abuse by family member/friend/guardian, or while on visit out of facility, or by any other person
- 105. Bed shortage; placement
- 106. Basic Care/similar facility licensing, regulation
- 107. Family conflict
- 108. Financial exploitation by family or other not affiliated with facility
- 109. Legal: guardianship, conservatorship, power of attorney, wills
- 110. Medicare
- 111. PASARR
- 112. Resident's physician not available
- 113. Protective service agency
- 114. SSA, SSI, VA (Other benefits)
- 115. Request for less restrictive placement

Q. Complaints in Other than Nursing or Basic Care/Similar Settings

- 116. Home care
- 117. Hospital or hospice
- 118. Public or other congregate housing not providing personal care
- 119. Shelters

Forms Appendix 695-01-60

Community Ombudsman Activity Log 695-01-60-01 (Revised 4/1/07 ML #3075)

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Click [here](#) to view this form.

**Authorization of Release of Information, SFN 1059
695-01-60-05**

(Revised 4/1/07 ML #3075)

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Click [here](#) to view SFN 1059.

Orientation Check List 695-01-60-10
(Revised 4/1/07 ML #3075)

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**Confidentiality and Conflict of Interest Statement of
Understanding 695-01-60-15**

(Revised 4/1/07 ML #3075)

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**Community Ombudsman Position Description
695-01-60-20**

(Revised 4/1/07 ML #3075)

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